

STATEMENT OF EMERGENCY

201 KAR 35:020E

This emergency administrative regulation amendment is being promulgated to address an imminent threat to public health, safety, or welfare caused by the shortage of qualified counselors available to treat individuals during the current substance abuse crisis. Further, this emergency amendment is being promulgated to meet an imminent deadline imposed by state statute, namely SB 191. SB 191, signed by the Governor on April 24, 2020, and effective on March 1, 2021, amends KRS 309.080 to 309.089 to create two (2) additional credentials for drug and alcohol counseling. These credentials are administered and enforced by the Kentucky Board of Alcohol and Drug Counselors ("Board"). Among other things, KRS 309.0813, as amended by SB 191, requires the Board to promulgate administrative regulations to administer and enforce the new credentials. This statutory change required the amendment of nine (9) regulations and nineteen (19) forms. The Board has been diligently working on these regulatory amendments and forms, since the passage of SB 191. This emergency amendment will allow the Board to certify applicants for the two (2) new credentials created by SB 191 and regulate them in compliance with the statute effective March 1, 2021. An ordinary administrative regulation is not sufficient, because of the imminent effective date of SB 191. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency regulation.

TIM CESARIO, Chair
ANDY BESHEAR, Governor

BOARDS AND COMMISSIONS

Board of Alcohol and Drug Counselors

(Emergency Amendment)

201 KAR 35:020E. Fees.

EFFECTIVE: March 5, 2021

RELATES TO: KRS 309.083, 309.0831, 309.0832, 309.0833, 309.084, 309.0841, 309.0842, 309.085(1)(a)

STATUTORY AUTHORITY: KRS 309.0813(1), (4), (5), (12), 309.085(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(4) requires the board to promulgate an administrative regulation governing the administration and grading of the written examination, which applicants shall be required to successfully complete. KRS 309.0813(12) requires the board to promulgate administrative regulations establishing initial registration, certification, and licensure fees and renewal fees. This administrative regulation establishes those fees.

Section 1. Application Fees. (1) The application fee for board review of an application for a licensed clinical alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, certified alcohol and drug counselor, certified alcohol and drug counselor associate II, certified alcohol and drug counselor associate I, or registered alcohol and drug peer support specialist, KBADC Form 1, shall be fifty (50) dollars.

(2) The application fee shall be nonrefundable.

(3) An application shall lapse one (1) year from the date it is filed with the board office.

(4)~~[(a)]~~ If an approved applicant applies one (1) or more times after the original application

lapses, the applicant shall comply with the requirements of this subsection.

~~(a)[4.]~~ The applicant shall successfully complete the examination required by the board within one (1) year~~[two (2) years]~~ from the date the original application is filed.

~~(b)[2.]~~ If the applicant does not successfully complete the examination within the time period required by subparagraph ~~(a)[4.]~~ of this paragraph, the applicant shall update and refile the application prior to sitting for the examination again. [

~~(b) The fee for refiling the application form shall be twenty (20) dollars.]~~

Section 2. Comprehensive Examination Fees. (1) An applicant for registration as an alcohol and drug peer support specialist shall pay an examination fee of \$150. The fee for retaking the comprehensive examination for registration shall be \$150.

(2) An applicant for certification shall pay an examination fee of \$200. The fee for retaking the comprehensive examination for certification shall be \$200.

(3) An applicant for licensure shall pay an examination fee of \$200. The fee for retaking the comprehensive examination for licensure shall be \$200.

Section 3. Credentialing Fees. (1)~~[(a)]~~ The registration fee for an alcohol and drug peer support specialist shall be \$100.

~~(2)[(b)]~~ The certification fee for a certified alcohol and drug counselor shall be \$200.

~~(3)[(c)]~~ The licensure fee for a licensed clinical alcohol and drug counselor or licensed clinical alcohol and drug counselor associate shall be \$300. [

~~(2) If the applicant successfully completes all requirements for registration, certification, or licensure, the fee established in subsection (1) of this section shall cover credentialing for the initial three (3) year period.]~~

Section 4. Renewal Fees and Penalties. (1)(a) A registration, certificate, or license not renewed within ninety (90) days after the holder's renewal date shall be deemed cancelled in accordance with KRS 309.085(2).

(b) A person holding a cancelled registration shall not use the title "registered alcohol and drug peer support specialist" or hold himself or herself out as a registered alcohol and drug peer support specialist or engage in the practice of alcohol and drug peer support services.

(c) A person holding a canceled certificate shall not:

1. Use~~[use]~~ the title "certified alcohol and drug counselor," ~~[or]~~ hold himself or herself out as a certified alcohol and drug counselor, or engage in the practice of alcohol and drug counseling.

2. Use the title temporary certified alcohol and drug counselor, hold himself or herself out as a temporary alcohol and drug counselor, or engage in the practice of alcohol and drug counseling.

3. Use the title "certified alcohol and drug counselor associate I," or hold himself or herself out as a certified alcohol and drug counselor associate I, or engage in the practice of alcohol and drug counseling.

4. Use the title "certified alcohol and drug counselor associate II," or hold himself or herself out as a certified alcohol and drug counselor associate II, or engage in the practice of alcohol and drug counseling.

(d) A person holding a canceled license shall not use the title "licensed clinical alcohol and drug counselor" or hold himself or herself out as a licensed clinical alcohol and drug counselor or engage in the practice of alcohol and drug counseling.

(e) A person holding a canceled license as a licensed clinical alcohol and drug counselor associate shall not use the title "licensed clinical alcohol and drug counselor associate" or hold

himself or herself out as a licensed clinical alcohol and drug counselor associate or engage in the practice of alcohol and drug counseling.

(2) The fees and penalties established in this subsection shall be paid in connection with registration, certification, or licensure renewals.

(a) The renewal fee for registration as a temporary registered alcohol and drug peer support specialist shall be fifty (50) dollars for a two (2) year period, and shall accompany the Application for Renewal, KBADC Form 16.

(b) The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$100 for registration as a temporary registered alcohol and drug peer support specialist for a two (2) year period.

(c)[(a)] The renewal fee for registration as a registered alcohol and drug peer support specialist shall be \$100 for a three (3) year period, and shall accompany the Application for Renewal, KBADC Form 16.

(d)[(b)] The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$150 for registration as a registered alcohol and drug peer support specialist for a three (3) year period.

(e)[(c)] The renewal fee for certification as a certified alcohol and drug counselor associate I, a certified alcohol and drug counselor associate II, or a temporary certified alcohol and drug counselor shall be \$100 for a two (2) year period, and shall accompany the Application for Renewal.

(f) The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$150 for certification as a certified alcohol and drug counselor associate I, a certified alcohol and drug counselor associate II, or a temporary certified alcohol and drug counselor for a two (2) year period.

(g) The renewal fee for certification as a certified alcohol and drug counselor shall be \$200 for a three (3) year period, and shall accompany the Form 16 Application for Renewal.

(h)[(d)] The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$250 for certification as a certified alcohol and drug counselor for a three (3) year period.

(i)[(e)] The renewal fee for licensure shall be \$300 for a three (3) year period, and shall accompany the Application for Renewal.

(j)[(f)] The late renewal fee for the ninety (90) day grace period, as well as licensure for a three (3) year period, shall be a:

1. \$300 fee; and
2. Penalty fee of fifty (50) dollars.

Section 5. Reinstatement of a Canceled Registration, Certificate, or Licensure. (1) A canceled registration may be reinstated within one (1) year of the anniversary date of issue of renewal by:

(a) Submitting a completed Application for Reinstatement;

(b) Proof of completion of continuing education in accordance with 201 KAR 35:040~~[and of ten (10) hours of continuing education during the one (1) year period]~~; and

(c) Payment of a \$200 reinstatement fee for registration for a three (3) year period.

(2) A canceled certificate of a certified alcohol and drug counselor, certified drug and alcohol counselor associate II, and certified alcohol and drug counselor associate I may be reinstated within one (1) year of the anniversary date of issue of renewal by:

(a) Submitting a completed Application for Reinstatement;

(b) Proof of completion of continuing education in accordance with 201 KAR 35:040~~[and of twenty (20) hours of continuing education during the one (1) year period]~~; and

(c) Payment of a \$300 reinstatement fee, for certification for a three (3) year period.

(3) A canceled license may be reinstated within one (1) year of the anniversary date of issue of renewal by:

- (a) Submitting a completed Application for Reinstatement;
- (b) Proof of completion of continuing education in accordance with 201 KAR 35:040~~[and of twenty (20) hours of continuing education during the one (1) year period]~~; and
- (c) Payment for licensure for a three (3) year period, which shall be a:
 - 1. \$300 fee; and
 - 2. Penalty fee of \$100.

Section 6. Duplicate Credential fee~~[and ID Card Fees]~~. ~~[(4)]~~ The fee for a duplicate credential shall be twenty (20) dollars. ~~[(2) The fee for a duplicate ID card shall be ten (10) dollars.]~~

Section 7. Inactive Status Fees. (1) The enrollment fee for voluntarily placing a registration, certificate, or license in inactive status in accordance with 201 KAR 35:080 shall be fifty (50) dollars.

(2) The annual renewal fee for a registration, certificate, or license enrolled in inactive status shall be twenty-five (25) dollars based on the renewal date.

(3)(a) The fee for reactivation of a registration shall be \$100 for a three (3) year period commencing on the date the board approves the application for reactivation.

(b) The fee for reactivation of a registration as a registered temporary registered alcohol and drug peer support specialist, certificate as a temporary certified alcohol and drug counselor, certificate as a certified alcohol and drug counselor associate I, and certificate as a certified alcohol and drug counselor associate II shall be fifty (50) dollars for a two (2) year period commencing on the date the board approves the application for reactivation.

(c) The fee for reactivation of a certificate as a certified alcohol and drug counselor shall be \$200 for a three (3) year period commencing on the date the board approves the application for reactivation.

~~(d) [(e)]~~ The fee for reactivation of a license shall be \$300 for a three (3) year period commencing on the date the board approves the application for reactivation.

Section 8. Continuing Education Fees. (1) For purposes of this administrative regulation, a continuing education sponsor shall be an individual or entity that provides a program of continuing education to credential holders that has been reviewed and approved by the board to meet the continuing education requirements set forth in 201 KAR 35:040.

(2) Approvals may consist of a single workshop or a program of courses and shall be effective for one (1) year from the date of approval.

(3) The fee for approval of an application for a single program provider shall be fifty (50) dollars.

(4) The fee for approval of an application for a continuing education sponsor providing a program of courses shall be \$250.

(5) Continuing education sponsors who have received approval for their program of courses may apply for renewal of the approval in accordance with 201 KAR 35:040 and shall pay an annual renewal fee of \$150.

(6)(a) The fee for review of an application for a substantial change in curriculum of an approved program shall be fifty (50) dollars.

(b) A substantial change shall be considered as the addition of a workshop or course to a pre-approved program, or changes to the content of a pre-approved workshop or program which is in excess of twenty (20) percent.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "KBADC Form 1, Application", March 2021~~[June 2015]~~;
- (b) "KBADC Form 16, Application for Renewal", March 2021~~[June 2015]~~; and
- (c) "KBADC Form 17, Application for Reinstatement", March 2021~~[June 2015]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 500 Mero St, 2 SC 32~~[911 Leawood Drive]~~, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m. The board's Web site address is: <https://adc.ky.gov>.

TIM CESARIO, Chair

APPROVED BY AGENCY: February 25, 2021

FILED WITH LRC: March 5, 2021 at 4:27 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 AM on April 26, 2021 at 500 Mero Street, 127CW, Frankfort, Kentucky 40601. In the event the building is not open to the public on April 26, 2021, including if the declared State of Emergency in Executive Order 2020-215 and the State of Emergency Relating to Social Distancing in Executive Order 2020-243 are not rescinded by April 26, 2021, this hearing will be held by video teleconference, in which event members of the public wishing to attend may utilize the following link: Join from PC, Mac, Linux, iOS or Android:

<https://us02web.zoom.us/j/83379565231?pwd=VUF1MThJYTZnbmNA1WmxMZEt0RCtyZz09>, Password: 930689, Or Telephone: Dial: USA 713 353 0212, USA 8888227517 (US Toll Free), Conference code: 995892. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on April 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone (502) 782-0562, fax (502) 564-4818, email KevinR.Winstead@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin R. Winstead

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the application, comprehensive examination, credential, renewal, penalty, reinstatement, duplicate credential, inactive status, and continuing education fees.

(b) The necessity of this administrative regulation: The necessity of this regulation is to advise the public, credential holders, and applicants of fees to be assessed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as KRS 309.0813(12), the authorizing statute, gives the board

the ability to promulgate regulations regarding the establishment of fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the effective administration of the statutes by establishing the fees to be assessed for the application, comprehensive examination, credential, renewal, penalty, reinstatement, duplicate credential, inactive status, and continuing education.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will change the existing administrative regulation by: (1) adding an application fee of fifty (50) dollars for a certified alcohol and drug counselor associate I and II; (2) decreasing the time to complete the examination required by the board from two (2) years to one (1) year; (3) deleting, as duplicative of other regulations, the fee for refiling the application form; (4) deleting a provision allowing credentialing fees for one credential to cover credentialing fees for other credentials obtained within three (3) years; (5) prohibiting the use of the titles temporary alcohol and drug counselor, certified alcohol and drug counselor associate I, and certified alcohol and drug counselor associate II for credential holders whose certification has canceled; (6) setting the renewal fee for a temporary registered alcohol and drug peer support specialist at fifty (50) dollars for a two (2) year period and the late renewal fee at \$100; (7) setting the renewal fee for a temporary certified alcohol and drug counselor, certified alcohol and drug counselor associate I, and certified alcohol and drug counselor associate II at \$100 for a two (2) year period; (7) setting the late renewal fee for a temporary certified alcohol and drug counselor, certified alcohol and drug counselor associate I, and certified alcohol and drug counselor associate II at \$150; (8) removing requirement from this regulation that credential holders complete ten (10) hours of continuing education for reinstatement; (9) adding certified alcohol and drug counselor associate I and II to the list of credential holders that may reinstate a canceled certificate; (10) removing requirement of twenty (20) hours of continuing education during a one (1) year period for reinstatement; (11) removing the requirement of twenty (20) hours of continuing education during the one (1) year period of cancellation to reinstate a license; (12) deleting the option for a duplicate ID Card; (13) deleting the fee for a duplicate ID card; (13) establishing the fee for reactivation of a registered temporary alcohol and drug peer support specialist, temporary certified alcohol and drug counselor, certified alcohol and drug counselor associate I, certified alcohol and drug counselor associate II credentials at fifty (50) dollars; (14) updating the board's address; and (15) adding the board's Web site address.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to establish fees for credential holders and other services provided by the board.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statute, KRS 309.0813(12), which gives the board the ability to promulgate regulations regarding the establishment of fees.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by establishing the fees to be assessed for the application, credential, renewal, penalty, reinstatement, duplicate credential, and inactive status for the alcohol and drug counselor associate I and II.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board is unable to determine the exact number of persons who would be impacted by this regulation since the applications vary from month to month. Future applicants and persons credentialed by the board will be affected by this administrative regulation. As of February 1, 2021 there were 513 licensed clinical alcohol and drug counselors, 21 licensed clinical alcohol and drug counselor associates, 458 certi-

fied alcohol and drug counselors, 930 temporary certified alcohol and drug counselors, 95 temporary registered alcohol and drug peer support specialists, and 15 registered alcohol and drug peer support specialists.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Applicants and credential holders shall pay a fee associated with the credential or services sought.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This amendment to the administrative regulation establishes new fees for the newly created credentials of alcohol and drug counselor associate I and II.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance, applicants and credential holders will know the fees associated with their credential and services provided.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Initially, there is no additional cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: On a continuing basis, there is no additional cost to the administrative body to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The regulation establishes: an application fee of fifty (50) dollars for certified alcohol and drug counselor associate I and II; a renewal fee of fifty (50) dollars for a temporary registered alcohol and drug peer support specialist; a late renewal fee of \$100 for registration as a temporary registered alcohol and drug peer support specialist; a renewal fee of \$100 for certification as a certified alcohol and drug counselor associate I, a certified alcohol and drug counselor associate II, and a temporary certified alcohol and drug counselor; a late renewal fee of \$150 for a temporary certified alcohol and drug counselor, a certified alcohol and drug counselor associate I, and a certified alcohol and drug counselor associate II; a reinstatement fee of \$300 for a certified alcohol and drug counselor, certified drug and alcohol counselor associate II, and certified alcohol and drug counselor associate I; and a reactivation fee of fifty (50) dollars for a temporary certified alcohol and drug counselor, certificate as a certified alcohol and drug counselor associate I, and certificate as a certified alcohol and drug counselor associate II.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation established directly or indirectly the following fees: an application fee of fifty (50) dollars for certified alcohol and drug counselor associate I and II; a renewal fee of fifty (50) dollars for a temporary registered alcohol and drug peer support specialist; a late renewal fee of \$100 for registration as a temporary registered alcohol and drug peer support specialist; a renewal fee of \$100 for certification as a certified alcohol and drug counselor associate I, a certified alcohol and drug counselor associate II, and a temporary certified alcohol and drug counselor; a late renewal fee of \$150 for a temporary certified alcohol and drug counselor, a certified alcohol and drug counselor associate I, and a certified alcohol and drug counselor associate II; a reinstatement fee of \$300 for a certified alcohol and drug counselor, certified drug and alcohol counselor associate II, and certified alco-

hol and drug counselor associate I; and a reactivation fee of fifty (50) dollars for a temporary certified alcohol and drug counselor, certificate as a certified alcohol and drug counselor associate I, and certificate as a certified alcohol and drug counselor associate II.

(9) TIERING: Is tiering applied? Tiering was not applied as the criteria apply to all credential holders.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Alcohol and Drug Counselors.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.0813(1), (12), 309.083, 309.0831, 309.0832, 309.0833(1)(a), 309.084, 309.0841, 309.0842, and 309.085.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The board is unable to determine how much revenue this administrative regulation will generate for state or local government for the first year. The amendments to this administrative regulation: set an application fee of fifty (50) dollars for a certified alcohol and drug counselor associate I and II; set the renewal fee for a temporary registered alcohol and drug peer support specialist at fifty (50) dollars for a two (2) year period and the late renewal fee at \$100; set the renewal fee for a temporary certified alcohol and drug counsel, certified alcohol and drug counselor associate I, and certified alcohol and drug counselor associate II at \$100 for a two (2) year period; set the late renewal fee for a temporary certified alcohol and drug counselor, certified alcohol and drug counselor associate I, and certified alcohol and drug counselor associate II at \$150; delete the fee for a duplicate ID card; and establish the fee for reactivation of a registered temporary alcohol and drug peer support specialist, temporary certified alcohol and drug counselor, certified alcohol and drug counselor associate I, certified alcohol and drug counselor associate II credentials at fifty (50) dollars.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The board is unable to determine how much revenue this administrative regulation will generate for state or local government on an ongoing basis. The amendments to this administrative regulation: set an application fee of fifty (50) dollars for a certified alcohol and drug counselor associate I and II; set the renewal fee for a temporary registered alcohol and drug peer support specialist at fifty (50) dollars for a two (2) year period and the late renewal fee at \$100; set the renewal fee for a temporary certified alcohol and drug counsel, certified alcohol and drug counselor associate I, and certified alcohol and drug counselor associate II at \$100 for a two (2) year period; set the late renewal fee for a temporary certified alcohol and drug counselor, certified alcohol and drug counselor associate I, and certified alcohol and drug counselor associate II at \$150; delete the fee for a duplicate ID card; and establish the fee for reactivation of a registered temporary alcohol and drug peer support specialist, temporary certified alcohol and drug counselor, certified alcohol and drug counselor associate I, certified alcohol and drug counselor associate II credentials at fifty (50) dollars.

(c) How much will it cost to administer this program for the first year? There will be no additional cost to administer this program.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to administer this program.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None